

IN THE OREGON TAX COURT
MAGISTRATE DIVISION
Income Tax

RITA MCINTYRE,)	
)	
Plaintiff,)	TC-MD 060632D
)	
v.)	
)	
DEPARTMENT OF REVENUE,)	
State of Oregon,)	
)	
Defendant.)	DECISION

Plaintiff appeals Defendant’s conference decision denying the “pass-through loss”¹ from A D & R, Inc. in tax year 2002, net operating loss carryback to tax years 1997 and 1999, and other items explained in Defendant’s conference decision dated May 31, 2006.

The court’s Decision in *A D & R, Inc v. Department of Revenue, State of Oregon*, TC-MD No 060633D, filed March 20, 2007, setting forth the statement of facts, analysis and conclusion that addresses the net operating loss and other related adjustments including basis in stock and loans, distributions, gain on repayment of loans and loss carryback arising from Plaintiff’s pro rata share of the net operating loss from A D & R, Inc. are made a part of the court’s decision in the above-entitled captioned matter (TC-MD No 060632D).

At trial, the parties agreed that Plaintiff is entitled to a medical insurance deduction for tax year 2002 in the amount of \$291. (*See* Ptf’s Ltr at 4, Nov. 21, 2006.) Plaintiff’s claimed deductions for medical expenses and charitable contributions were adjusted, resulting in Plaintiff being entitled to the standard deduction rather than itemized deductions. Plaintiff filed an

¹ “The shareholder’s pro rata share of the income of an S corporation is subject to tax under ORS chapter 316.” ORS 314.734.

All references to the Oregon Revised Statutes (ORS) are to year 2001.

amended return, claiming itemized deductions in excess of the standard deduction. (*See* Ptf's Ex 50 at 3.). Defendant did not inform the court if it accepted Plaintiff's amended return including itemized deductions.

CONCLUSION

After careful review of the testimony, evidence and applicable law, the court concludes that A D & R, Inc. and its shareholders incorrectly reported its purchase of the business known as Charl's Restaurant. As a result, the purchase of the assets, loans from shareholders and distributions to shareholders were not properly reported. Now, therefore,

IT IS THE DECISION OF THIS COURT that Plaintiff, who is a shareholder in A D & R, Inc., a Subchapter S Corporation, will receive a pro-rata share of A D & R's income and distributions based on her ownership interest in accordance with the court's Decision in TC-MD No 060633D; and

IT IS FURTHER DECIDED that Plaintiff is entitled to a medical insurance deduction in the amount of \$291 for tax year 2002, and an additional subtraction in the amount of \$447.

Dated this ____ day of March 2007.

JILL A. TANNER
PRESIDING MAGISTRATE

If you want to appeal this Decision, file a Complaint in the Regular Division of the Oregon Tax Court, by mailing to: 1163 State Street, Salem, OR 97301-2563; or by hand delivery to: Fourth Floor, 1241 State Street, Salem, OR.

Your Complaint must be submitted within 60 days after the date of the Decision or this Decision becomes final and cannot be changed.

This document was signed by Presiding Magistrate Jill A. Tanner on March 21, 2007. The Court filed and entered this document on March 21, 2007.